

**Secretariat**

26 July 2004

Information circular*

To: Members of the staff

From: The Under-Secretary-General for Management

Subject: **Practice of the Secretary-General in disciplinary matters, 2002-2003**

1. The purpose of the present circular is to continue to inform staff members of the practice of the Secretary-General in exercising his authority in disciplinary matters under article X of the United Nations Staff Regulations. The first information circular of this kind, ST/IC/2002/25, which covered the period from January 2000 through February 2002, was provided at the request of the Accountability Panel, which was established by the Secretary-General by ST/SGB/2000/14 of 23 October 2000 to ensure that the Secretariat addresses the findings of its oversight review bodies from a systemic perspective, and to reinforce existing accountability mechanisms. This was done to raise awareness and enhance transparency regarding accountability in disciplinary matters among managers and staff. The present information circular covers the period from March 2002 through December 2003.

I. Overview of administrative machinery in disciplinary matters**A. Rules governing the conduct of staff members¹**

2. Article 101, paragraph 3, of the Charter of the United Nations states that the "paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and *integrity*" (emphasis added).
3. Article I of the Staff Regulations and chapter I of the Staff Rules, both entitled "Duties, obligations and privileges", set out the basic values expected of

* The present circular will be in effect until further notice.

¹ For a full overview of relevant provisions, see Secretary-General's bulletin ST/SGB/2002/13, "Status, basic rights and duties of United Nations staff members", issued at the request of the General Assembly. Provisions relating to the status, rights and obligations of staff members, and to disciplinary matters, can also be found in the electronic Human Resources Handbook (http://intranet.un.org/hr_handbook) under "Status, basic rights and duties" and "Disciplinary".



international civil servants because of their status, as well as particular manifestations of such basic values. Particular reference is made to staff regulation 1.2 and staff rule 101.2 for specific instances of expected or prohibited conduct.

B. Misconduct

4. Article X of the Staff Regulations, entitled "Disciplinary measures", provides in regulation 10.2 that "the Secretary-General may impose disciplinary measures on staff members whose conduct is unsatisfactory". Staff rule 110.1, on misconduct, provides that "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant, may amount to unsatisfactory conduct ... leading to the institution of disciplinary proceedings and the imposition of disciplinary measures for misconduct". Similarly, staff rule 101.2 (a) provides that "disciplinary procedures ... may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Rules, the Financial Regulations and Rules, and all administrative issuances". Within these parameters, the Secretary-General has broad discretion in determining what constitutes misconduct and in imposing disciplinary measures. Administrative instruction ST/AI/371, on revised disciplinary measures and procedures,² provides further examples of failure by staff members to comply with obligations and to observe the expected standards of conduct.

C. Due process

5. Where the head of office or responsible officer believes, on the basis of a preliminary investigation, that disciplinary procedures may be warranted, he or she will refer the matter to the Assistant Secretary-General for Human Resources Management for a decision on whether to pursue the matter as a disciplinary case.³ Preliminary investigations may be undertaken by the head of office or his/her designees, or by the Office of Internal Oversight Services, at its own initiative, or at the request of the head of office. If the Assistant Secretary-General for Human Resources Management decides to pursue the matter, the first step is to notify the staff member in writing of the allegations as well as of his or her right to seek the assistance of counsel. The staff member is given a reasonable opportunity to respond to the allegations. In the light of the comments provided by the staff member, it is decided whether to close the case, to refer it to a Joint Disciplinary Committee for advice or to summarily dismiss the staff member.

6. While the Secretary-General has broad discretionary authority in deciding upon an appropriate measure in each case, no staff member can be subjected to disciplinary measures until the matter has been referred to a Joint Disciplinary Committee for advice as to what measures, if any, are appropriate. Such referral to a

² See the electronic Human Resources Handbook referred to in footnote 1 above. Also relevant is administrative instruction ST/AI/379, on procedures for dealing with sexual harassment.

³ The head of administration in a mission will refer the case to the Department of Peacekeeping Operations, Personnel Management and Support Service, at Headquarters, which will refer the matter to the Office of Human Resources Management if it concurs with the mission.

Joint Disciplinary Committee may be waived when the staff member concerned and the Secretary-General agree on a disciplinary measure and the proceedings would therefore serve no valid purpose. Prior referral to a Joint Disciplinary Committee is not required when the seriousness of the case warrants summary dismissal. Staff members who have been summarily dismissed may, at their initiative, seek a review of their case by a Joint Disciplinary Committee. All staff members subjected to disciplinary measures ultimately have recourse to the United Nations Administrative Tribunal.⁴

D. Disciplinary measures

7. Staff rule 110.3 provides that disciplinary measures can take one or more of the following forms (i.e., more than one measure can be imposed in each case):

- (a) Written censure by the Secretary-General;
- (b) Loss of one or more steps in grade;
- (c) Deferment, for a specified period, of eligibility for within-grade increment;
- (d) Suspension without pay;
- (e) Fine;
- (f) Demotion;
- (g) Separation from service, with or without notice or compensation in lieu thereof;
- (h) Summary dismissal.

8. In determining the appropriate measure, every case is decided on its own merits, taking into account the particulars of the case, including aggravating and extenuating circumstances.

E. Other measures

9. Reprimands, written or oral, by a supervisory official are not considered disciplinary measures. Like warnings or letters of caution, they are managerial, not disciplinary measures. However, they are also important measures to uphold standards of proper conduct and to promote accountability. Where inappropriate behaviour affects performance, the issue is addressed in the context of performance management. This may include training, counselling, withholding of salary increments, non-renewal of contract or termination of appointment.

⁴ Numerous judgements of the United Nations Administrative Tribunal relate to disciplinary measures and show the practice of the Secretary-General for those cases brought before the Tribunal. Digests of these can be found in the online "Digest of Cases and Jurisprudence" (see "Administrative Tribunal", under the "Resources" column on the iSeek Intranet home page).

II. Summary of practice in disciplinary cases for the period March 2002 through December 2003

10. For each case that led to the imposition of one or more disciplinary measures, a summary is provided below, indicating the nature of the misconduct and the disciplinary measure(s) imposed by the Secretary-General. The function or other particulars of the staff member are provided only when these played a role as aggravating circumstances in determining the measures to be taken (e.g., a travel assistant accepting gifts from a United Nations vendor). Conduct issues that were dealt with by means other than disciplinary measures are not listed here.

11. Not every case brought to the attention of the Secretary-General results in disciplinary or other measures being taken. When a review by the Office of Human Resources Management reveals that there is not sufficient evidence to pursue a matter as a disciplinary case, or when a staff member provides a satisfactory explanation in response to allegations, the case is closed and the staff member considered cleared of the allegations. Cases may also be closed when a staff member retires or is otherwise separated from the Organization before disciplinary proceedings are concluded, as the Secretary-General does not have the authority to impose disciplinary measures on former staff members. In these cases a record is made and placed in the official status file.

1. Theft and misappropriation

(a) A staff member abused her supervisory authority and used the property and assets of the Organization, including its human resources, primarily for a private purpose, and not for the benefit of the Organization.

Disposition: summary dismissal.

(b) A staff member, whose official duties gave him access to most areas of the United Nations facility, took a computer that belonged to the Organization.

Disposition: summary dismissal.

2. Fraud and misrepresentation

(a) Three staff members used, separately from each other, and for their personal benefit, the telephone personal identification number (PIN) of other staff members without their knowledge or consent.

Disposition in all three cases: separation from service without notice.

(b) Over a period of several months, a staff member misrepresented, on a number of occasions, the identity of an individual, who was neither a United Nations staff member nor the staff member's recognized dependant, in order for the individual to obtain treatment at a hospital and to benefit from United Nations medical insurance coverage to which she was not entitled.

Disposition: separation from service, with compensation in lieu of notice.

(c) A staff member abused his official position with the Organization for the private gain of a third person. In particular, the staff member claimed medical benefits for the treatment of a non-recognized dependant.

Disposition: separation from service, with compensation in lieu of notice.

(d) Using his status as a United Nations staff member, a staff member assisted an individual not related to the United Nations in obtaining a tourist visa, although the staff member was aware that the individual intended to use the tourist visa for a longer period than to simply accompany the staff member on a holiday. Owing to the staff member's repeated misrepresentations during the different stages of the disciplinary proceedings, it was inferred that the staff member knowingly participated in an illegal immigration scheme. These actions negatively affected the interest and the public image of the Organization.

Disposition: separation from service, with compensation in lieu of notice.

(e) A staff member created, by forgery, two new letters from an original document he had received from the Organization and submitted these in support of two different visa applications. The Secretary-General considered that the staff member's actions also negatively affected the interest and public image of the Organization.

Disposition: separation from service, with compensation in lieu of notice.

(f) A finance assistant engaged in financial transactions with individuals whose claims he was processing in his official capacity. Although it was not established that he accepted any personal benefit from a third person in exchange for performing an official act, it was found that he improperly used his official position to receive loans from third parties.

Disposition: written censure, deferment for two years of within-grade increment and suspension without pay for three months. In addition, the staff member was reassigned to clerical functions unrelated to any kind of financial transactions or the processing of claims.

(g) A staff member altered and inflated figures on medical insurance claim forms that he submitted for reimbursement under United Nations medical insurance coverage. The staff member's explanation that his wife had inflated the invoices was not considered credible. Even if she had done so, the Secretary-General considered it the staff member's own responsibility to ensure that the invoices he submitted were accurate.

Disposition: separation from service, with compensation in lieu of notice.

(h) Two staff members schemed to bring an individual not related to the United Nations illegally into a host country of the Organization under a false identity and using falsified documentation, which constituted a conspiracy to violate local immigration laws. One of the two staff members sent the passport of his spouse, which contained a visa for the host country, to the non-United Nations staff member, allowing her to illegally enter the host country posing as his spouse. This behaviour was aggravated by the fact that it could reflect negatively on the image of the Organization in the host country. The other staff member also falsified documentation and submitted it, with fraudulent intent, in connection with a United Nations dependency benefit.

Disposition in each case: summary dismissal.

(i) A staff member attempted to defraud the Organization by submitting false certification in connection with a claim for reimbursement by the United Nations. The staff member also misused United Nations equipment by driving a

United Nations-owned vehicle recklessly and dangerously. He failed to respond fully to requests for information from investigating officials, misrepresenting facts to United Nations security personnel as well as to the Board of Inquiry. In addition, he further intimidated staff members and engaged in conduct intended to interfere with their ability to discharge their official duties by making veiled threats and intimidating comments to staff members, including a subordinate. Moreover, the staff member bribed third parties, including an accident victim, witnesses and the local police, with a view to causing them to perform or fail to perform an official act.

Disposition: summary dismissal.⁵

(j) Three staff members filed tax returns with national authorities that differed from the copies they had provided to the United Nations and failed to report income tax refunds received from the national authorities, thereby improperly benefiting from overreimbursement by the United Nations.

Disposition in each case: demotion, by one level, with no possibility of promotion.

(k) A staff member altered a cheque and forged a signature in order to substantiate a claim for reimbursement of a real estate agency fee, available under the rental subsidy scheme, and misled investigators.

Disposition: demotion by two levels and written censure.

(l) A staff member took a bank card and PIN belonging to the spouse of another staff member and used the card to make several withdrawals from their joint bank account.

Disposition, after waiver of referral to the Joint Disciplinary Committee: separation from service, without notice, compensation in lieu thereof or termination indemnity.

(m) A staff member engaged in a pattern of deceit and misrepresentation in order to avoid paying monthly alimony to the former spouse as ordered by the courts of the host country and for which (suspended) jail sentences were imposed. The staff member repeatedly made false declarations to the national authorities and otherwise caused embarrassment to the Organization with respect to its relations with the host country, and failed to supply relevant information to the Secretary-General.

Disposition: summary dismissal.

(n) A staff member participated in a fraudulent scheme regarding contract bidding procedures and misused his position in the procurement division of a mission. The special circumstances of the case, namely, that the acknowledged main perpetrator of the scheme had left the United Nations and that there had been insufficient supervision of the staff member, which may have facilitated the fraud, were considered mitigating, but not exculpatory factors.

Disposition: deferment of eligibility for within-grade increment for two years and written censure. In addition, the staff member was given new duties that were unrelated to any kind of financial transactions.

⁵ At the finalization date of the present information circular, the staff member's request for review of the disciplinary measure imposed was under review by the Joint Disciplinary Committee, New York.

3. Harassment and sexual harassment

(a) In a private conversation with a colleague, a staff member referred to other colleagues in an inappropriate manner. The staff member acknowledged that the comment was inappropriate and unacceptable and apologized to the colleague to whom the comment was made as well as to other staff in the department concerned.

Disposition, after waiver of referral to a Joint Disciplinary Committee: written censure.

(b) A staff member engaged in conduct that was disruptive to the normal functioning of the office and issued defamatory and threatening statements against the head of office and other senior United Nations officials. The acts of misconduct were considered so severe as to make any further constructive working relationship between the staff member and the Organization impossible.

Disposition: separation from service with compensation in lieu of notice.

4. Unauthorized outside activities

A staff member engaged in outside employment without the prior approval of the Secretary-General, as required under staff regulation 1.2 (o). His outside employment consisted of another full-time job, which he had concealed from the Organization for a protracted period of time.

Disposition: summary dismissal.

5. Other

(a) A staff member used privileged access to the Integrated Management Information System to improperly alter official records by creating an untruthful personnel action stating that another staff member had been suspended from duty with full pay pending investigation into possible misconduct. The Secretary-General observed that even an act that may be perceived as a prank can amount to misconduct.

Disposition: written censure and deferment, for one year, of eligibility for within-grade increment.

(b) A staff member accessed the commercial e-mail account of another staff member and impersonated that staff member.

Disposition: written censure.

(c) A municipal court convicted a staff member of extortion and imposed a suspended sentence of one year of imprisonment. The Secretary-General considered the offence for which the staff member was convicted a serious violation of local laws.

Disposition: summary dismissal.

(d) A staff member transported three women and their procurer in a United Nations vehicle to a location where they engaged in prostitution activities. While it was not established that the staff member was in any way connected to organized crime or furthering prostitution, his visible association with prostitution and his use of a United Nations vehicle had potentially serious, negative effects on the public

image of the Organization, particularly in the light of campaigns conducted by the United Nations to combat prostitution and prostitution-related crimes in the area.

Disposition, after waiver of referral to a Joint Disciplinary Committee: suspension from duty without pay for a period of one month.

(e) A staff member, who subsequently retired, negligently failed to properly supervise and monitor the activities of a major project and failed to comply with the Organization's procedures in respect of external funding.

Disposition: written censure.
